



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2013

Ms. Michele Freeland
Legal Assistant
Office of General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2013-21948

Dear Ms. Freeland:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 508738 (DPS PIR No. 13-3962).

The Texas Department of Public Safety (the "department") received a request for twenty-eight categories of information pertaining to blood specimens.¹ We understand you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains information pertaining to the analysis of a blood specimen obtained by a peace officer. Section 724.018 of the Transportation Code provides that, on the request of the person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen must be made available to

¹We note the department sought and received clarification from the requestor regarding portions of the request. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); see also *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

that person or the person's attorney. Transp. Code § 724.018; *see also id.* § 724.011 (person arrested for offense alleged to have been committed while person was operating a motor vehicle while intoxicated is deemed to have consented to taking of specimens of person's breath or blood for analysis to determine alcohol concentration), .012(b) (describing circumstances under which peace officer shall require the taking of a specimen of person's breath or blood if officer arrests person for offense involving operation of a motor vehicle and person refuses officer's request to submit to taking of specimen voluntarily). We find that "full information" under section 724.018 refers to the results of the analysis of the specimen, and includes the "Alcohol Analysis Worksheet," the "Toxicology/Blood Alcohol Kit Laboratory Submission Form," and the submitted charts and graphs. Here, the requestor is the attorney of an individual who submitted a blood specimen. Although you seek to withhold the information at issue under section 552.108 of the Government Code, a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* Open Records Decision No. 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under statutory predecessor to Act). Thus, the department must release the submitted information pertaining to the analysis of the requestor's client's blood specimen to the requestor.

You argue the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state release of the remaining information would interfere with a pending criminal prosecution. Based on this representation, we find release of the remaining information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, we find the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department must release the submitted information pertaining to the analysis of the requestor's client's blood specimen to the requestor pursuant to section 724.018 of the Transportation Code. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Cynthia G. Tynan". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 508738

Enc. Submitted documents

c: Requestor
(w/o enclosures)